

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER**

IN THE MATTER OF:

**GREGORY MANUFACTURING
COMPANY**

Fort Madison, Iowa

ADMINISTRATIVE CONSENT ORDER

NO. 2008-AQ- 16

TO: Gregory Manufacturing Company
WM Scott Power, Registered Agent
321 N 3rd Street
P.O. Box 1046
Burlington, Iowa 52601

Mark Walker, President
Gregory Manufacturing Company
2512 Henry Ladyn Drive
P.O. Box 325
Fort Madison, Iowa 52627

I. SUMMARY

This administrative consent order is entered into between Gregory Manufacturing Company (Gregory Manufacturing) and the Iowa Department of Natural Resources (DNR) for the purposes of resolving air quality violations at Gregory Manufacturing's facility in Fort Madison, Iowa. The parties have agreed to the provisions below.

Any questions regarding this administrative consent order should be directed to:

Relating to technical requirements:

Ryan Stouder, Field Office 6
Iowa Department of Natural Resources
1023 West Madison
Washington, Iowa 52353
Phone: 319/653-2135

Relating to legal requirements:

Kelli Book, Attorney for the DNR
Iowa Department of Natural Resources
7900 Hickman Road, Suite 1
Urbandale, Iowa 50322
Phone: 515/281-8563

Payment of penalty to:

Director of the Iowa DNR
Wallace State Office Building
502 East Ninth Street
Des Moines, Iowa 50319-0034

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JUN 26 2008**

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II. JURISDICTION

Pursuant to the provisions of Iowa Code sections 455B.134(9) and 455B.138(1), which authorize the Director to issue any order necessary to secure compliance with or prevent a violation of Iowa Code chapter 455B, Division II (air quality), and the rules promulgated and permits issued pursuant thereto; and Iowa Code section 455B.109 and 567 Iowa Administrative Code (IAC) chapter 10, which authorize the Director to assess administrative penalties, the DNR has jurisdiction to issue this administrative consent order.

III. STATEMENT OF FACTS

1. Gregory Manufacturing is located in Fort Madison, Iowa and produces steel racks and garbage dumpster containers. Gregory Manufacturing has several emission points including two paint booths, a priming paint booth, several sites for production welding, and solvent cleaning sites.

2. Gregory Manufacturing has been issued construction permits for the paint booths at its facilities. Condition 13 "Operating Condition Monitoring" in Construction Permit Numbers 98-A-1161, 98-A-1162, and 98-A-1163-S1 requires Gregory Manufacturing to do the following:

All records, as required below, shall be satisfactory for demonstrating compliance with all applicable operating limits.

a. A record of the material usage for all surface coating materials used at the facility over the previous month shall be recorded at the end of each month. The total material usage for all surface coating materials at the facility over the previous twelve (12) months shall also be recorded at the end of each month. MSDS's or other documentation showing the VOC content of the materials used shall be kept with these records.

b. A record of the material usage for all solvents used at the facility over the previous month shall be recorded at the end of each month. The total material usage for all solvents at the facility over the previous twelve (12) months shall also be recorded at the end of each month. MSDS's or other documentation showing the VOC content of the materials used shall be kept with these records.

3. Gregory Manufacturing was issued a Title V Operating Permit on December 16, 2002. Title V Operating Permit Number 02-TV-029 requires Gregory Manufacturing to do the following under "Section II Plant-Wide Conditions – Operating Limits":

Reporting & Record keeping: All records, as required below, shall be satisfactory for demonstrating compliance with all applicable operating limits and shall be kept on-site for a minimum of five (5) years and shall be available for inspection by the DNR. Records shall be legible and maintained in an orderly manner.

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a. A record of the material usage for all surface coating materials used at the facility over the previous month shall be recorded at the end of each month. The total material usage for all surface coating materials at the facility over the previous twelve (12) months shall also be recorded at the end of each month. MSDS's or other documentation showing the VOC content of the materials used shall be kept with these records.

b. A record of the material usage for all solvents used at the facility over the previous month shall be recorded at the end of each month. The total material usage for all solvents at the facility over the previous twelve (12) months shall also be recorded at the end of each month. MSDS's or other documentation showing the VOC content of the materials used shall be kept with these records.

4. On January 6, 2006, Isaac Willig, DNR Field Office 6, conducted a routine air quality compliance inspection at Gregory Manufacturing. Mr. Willig noted that the 12 month rolling total records for the facility wide usage of coatings and for the facility wide usage of solvent had not been updated since January 2005. On January 11, 2006, DNR Field Office 6 issued a Notice of Violation letter to Gregory Manufacturing for failing to maintain the required records. On January 23, 2006, Gregory Manufacturing submitted the required records to DNR Field Office 6.

5. On February 6, 2008, Mark Heiderscheit and Ryan Stouder, DNR Field Office 6, conducted a routine air quality compliance inspection at Gregory Manufacturing. Mr. Heiderscheit and Mr. Stouder noted that the 12 month rolling total records for the facility usage of coatings and for the facility wide usage of solvent had not been updated since February 2007. On February 13, 2008, DNR Field Office 6 issued a Notice of Violation letter to Gregory Manufacturing for failing to maintain the required records. The letter informed the facility that the matter was being referred for further enforcement.

6. Gregory Manufacturing has a long history of noncompliance with air quality regulations at its facility:

A. On July 21, 1998, Jim Sievers, DNR Field Office 6, conducted a routine air quality compliance inspection at Gregory Manufacturing and discovered that the paint booths at the facility had been constructed prior to obtaining construction permits. On July 23, 1998, DNR Field Office 6 issued a Notice of Violation letter to Gregory Manufacturing for failing to obtain construction permits prior to the construction and operation of the paint booths (a violation of 567 IAC 22.1(1)). The construction permits were later obtained by Gregory Manufacturing and are discussed in Paragraph 2 of this section.

B. On July 24, 1998, DNR Air Quality issued a Notice of Violation letter to Gregory Manufacturing for failing to submit Title V Permit fees for emission year 1997 (a violation of 567 IAC 22.106).

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C. On January 27, 2000, Paul Brandt, DNR Field Office 6, conducted a routine air quality compliance inspection at Gregory Manufacturing. Mr. Brandt noted that the annual material usage was being kept on a calendar year basis rather than on the required 12 month rolling total basis (violation of the construction permits). On February 9, 2000, DNR Field Office 6 sent a letter to Gregory Manufacturing requiring that it start to implement the proper recordkeeping. Gregory Manufacturing submitted a copy of 12 month rolling average records to DNR Field Office 6 on March 20, 2000.

D. On April 7, 2005, DNR Air Quality issued a Notice of Violation letter to Gregory Manufacturing for late submittal of the Title V Annual Compliance Certification (violation of 567 IAC 22.108).

E. On September 11, 2005, DNR Field Office 6 received a complaint alleging that paint from Gregory Manufacturing was being released through the stack and coating vehicles in the parking lot. Mr. Willig investigated the complaint on September 22, 2005, and observed that the filters were properly installed and there was no evidence of overspray on the vehicles. In a letter dated September 25, 2005, Mr. Willig summarized his visit and reminded Gregory Manufacturing that it must properly maintain all control equipment as required by 567 IAC 24.2(1). On October 5, 2005, DNR Field Office 6 received another complaint alleging that paint from Gregory Manufacturing was getting on vehicles in the parking lot. On October 21, 2005, Kurt Levetzow, DNR Field Office 6, investigated the complaint and noted that the dry filters had not been installed properly and it was allowing some overspray paint to be discharged. On October 26, 2005, DNR Field Office 6 issued a Notice of Violation letter to Gregory Manufacturing for failing to maintain the control equipment (violation of 567 IAC 24.2(1)).

IV. CONCLUSIONS OF LAW

1. 567 IAC 22.3(3) provides that a construction permit may be issued subject to conditions which shall be specified in writing. Condition 13 of Air Quality Construction Permit Numbers 98-A-1161, 98-A-1162, and 98-A-1163-S1 requires Gregory Manufacturing to maintain 12 month rolling total records for the facility wide usage of coatings and for the facility wide usage of solvent. During routine air quality inspections in 2006 and 2008, DNR Field Office 6 discovered that Gregory Manufacturing was not maintaining the records as required by the construction permits. The above-mentioned facts indicate noncompliance with Condition 13 in the permits and the above mentioned provision.

2. 567 IAC 22.108(9)"a" requires the permittee to comply with all conditions of the Title V Operating Permit. In Gregory Manufacturing's Title V permit regarding plant wide conditions for operating limits, the facility is required maintain 12 month rolling total records for the facility usage of coatings and for the facility wide usage of solvent. The records are to be kept on site for at least a period of five years. During routine air quality inspections in 2006 and 2008, DNR Field Office 6 discovered that Gregory Manufacturing was not maintaining the records as required by the Title V Permit. The above-mentioned facts indicate noncompliance with the Title V Permit and the above mentioned provision.

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V. ORDER

THEREFORE, the DNR orders and Gregory Manufacturing agrees to do the following:

1. Gregory Manufacturing shall comply with all construction permit and Title V permit recordkeeping requirements;
2. Gregory Manufacturing shall submit a plan of action to DNR Field Office 6 within 30 days of the date the Director signs this administrative consent order. This plan of action must address how Gregory Manufacturing will comply with the construction permit and Title V permit requirements. The plan of action must outline what steps Gregory Manufacturing will take to ensure that it will maintain compliance in the future; and
3. Gregory Manufacturing shall pay a penalty of \$2,500.00 within 30 days of the date the Director signs this administrative consent order.

VI. PENALTY

1. Iowa Code section 455B.146 authorizes the assessment of civil penalties of up to \$10,000.00 per day of violation for each of the air quality violations involved in this matter.

2. Iowa Code section 455B.109 authorizes the Environmental Protection Commission to establish by rule a schedule of civil penalties up to \$10,000.00, which may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties in 567 IAC chapter 10. Pursuant to these rules, the DNR has determined that the most effective and efficient means of addressing the above-cited violations is the issuance of an administrative consent order with an administrative penalty. The administrative penalty assessed by this administrative consent order is \$2,500.00. The administrative penalty is determined as follows:

Economic Benefit – Gregory Manufacturing's failure to comply with its construction permits and its Title V permit allowed Gregory Manufacturing to save time and money. The company also saved time and money by not maintaining the proper operating records. An economic benefit of \$250.00 is being assessed for this factor.

Gravity of the Violation – One of the factors to be considered in determining the gravity of a violation is the amount of penalty authorized by the Iowa Code for that type of violation. As indicated above, substantial civil penalties are authorized by statute. Despite the high penalties authorized, the DNR has decided to handle the violations administratively at this time, as the most equitable and efficient means of resolving the matter. Gregory Manufacturing is a major source subject to the Title V program, and it has the potential to

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emit a significant amount of air contaminants. By not maintaining the proper records, the DNR is unable to ensure compliance with the construction permits. Additionally, the DNR staff has spent a substantial amount of time working with the facility in an effort to assist the facility with operating in compliance with its permits. Failure to comply with the requirements in construction permits and the Title V permit threatens the integrity of the air quality program. For these reasons, \$1,000.00 is assessed for this factor.

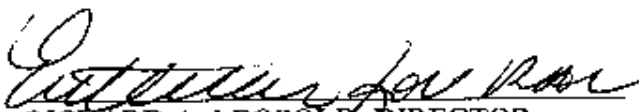
Culpability – Gregory Manufacturing has a duty to remain knowledgeable of DNR's requirements and to be alert to the probability that its conduct is subject to DNR's rules. Gregory Manufacturing has a long history of noncompliance with the air quality regulations as noted in the fact section above. For these reasons, \$1,250.00 is assessed for this factor.

VII. WAIVER OF APPEAL RIGHTS

This administrative consent order is entered into knowingly by and with the consent of Gregory Manufacturing. For that reason, Gregory Manufacturing waives the right to appeal this administrative consent order or any part thereof.

VIII. NONCOMPLIANCE

Failure to comply with this administrative consent order may result in the imposition of further administrative penalties or referral to the Attorney General to obtain injunctive relief and civil penalties pursuant to Iowa Code section 455B.146. Compliance with section "V. Order" of this administrative consent order constitutes full satisfaction of all requirements pertaining to the violations described in section "IV. Conclusions of Law" of this administrative consent order. The DNR reserves the right to bring an enforcement action or to request that the Attorney General initiate legal action to address other violations not described in Section "IV Conclusions of Law" of the administrative consent order but which may arise from the facts summarized in Section "III. Statement of Facts" of this administrative consent order.



RICHARD A. LEOPOLD, DIRECTOR
Iowa Department of Natural Resources

Dated this 2 day of
July, 2008



Gregory Manufacturing Company

Dated this 20 day of
June, 2008

Barb Stock (#56-02-035); Kelli Book; Joe Sanfilippo; DNR Field Office 6; EPA; VII.B.2.